

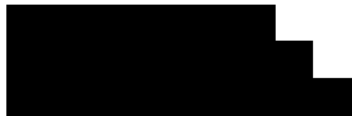


UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 07
477 Michigan Ave Rm 300
Detroit, MI 48226-2543

Agency Website: www.nlrb.gov
Telephone: (313)226-3200
Fax: (313)226-2090

April 7, 2015



Re: United States Postal Service
Case 07-CA-144653

United States Postal Service
Case 07-CA-146127

Local 307, National Postal Mail Handlers
Union (NPMHU) a division of LIUNA,
AFL-CIO (United States Postal Service)
Case 07-CB-146138

Dear Ms. McIntosh:

We have carefully investigated and considered your charges that United States Postal Service and Local 307, National Postal Mail Handlers Union (NPMHU), a division of LIUNA, AFL-CIO have violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

- **Case 07-CA-144653:** There was insufficient evidence to link USPS' classifying your absence during pay period 24-2014 as leave without pay (LWOP) rather than annual leave, to any charge-filing or union activity on your part. At the time your request was to become effective, you had less annual leave available to you than the 60 hours you requested. The USPS' Employee & Labor Relations Manual at Section 512.43 provides that, when an employee requests leave but has insufficient leave balance to cover the request, it is changed to leave without pay.
- **Case 07-CA-146127:** The investigation found no evidence to support the allegation that USPS management in Grand Rapids took any discriminatory action against you related to your union activities, or harbored any unlawful motive for the positions they took when originally assigning to you a new seniority date. An explicit term of the written offer you received to transfer back to Grand Rapids was that you would "begin a new period of seniority" upon your return. Although USPS management ultimately yielded to the Union's request that your seniority be restored and adjusted for the months you were stationed in Jackson, Mississippi, it cannot be established that their refusal to create a

mirrored job for you, or to award you out-of-schedule pay for a bid job you lost prior to restoration of seniority, were based on discriminatory motives.

- **Case 07-CB-146138:** Although certain Union officials originally questioned the legitimacy of the process used to allow your return transfer to Grand Rapids, and whether that process would properly allow you to take advantage of Article 12.2.G9 of the contract, shortly after you returned the Union successfully advocated for the restoration of your seniority. The Union's failure to obtain the other remedies you requested for the delay in restoration of your seniority is not attributable to any arbitrary, discriminatory or unlawful consideration, but primarily to the refusal of USPS to agree to such remedies.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at www.nlrb.gov. However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at www.nlrb.gov, click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14th Street NW, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date: The appeal is due on **April 21, 2015**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than April 20, 2015. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before April 21, 2015**. The request may be filed electronically through the **E-File Documents** link on our website www.nlrb.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after April 21, 2015, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/ Terry Morgan

Terry Morgan
Regional Director

Enclosure

cc:

[REDACTED]

United States Postal Service (Law
Department - NLRB Unit)
1720 Market St.
Room 2400
Saint Louis, MO 63155-9948

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Local 307, National Postal Mail Handlers
Union (NPMHU) a division of LIUNA,
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2441 W Grand Blvd Ste 201
Detroit, MI 48208-1229

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
Room 8820, 1099 - 14th Street, N.W.
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)